

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re:

MICHAEL P. D'ALESSIO,  
  
Debtor.

Hearing Date: October 1, 2018  
Hearing Time: 10:00 AM

**NOTICE OF MOTION FOR RELIEF  
FROM AUTOMATIC STAY PURSUANT  
TO 11 U.S.C. §362(d)(1)**

Case No. 18-22552-RDD  
Chapter 7

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PLEASE TAKE NOTICE that upon the Motion for Relief from Automatic Stay pursuant to 11 U.S.C. §362(d)(1), of secured creditor, Nissan-Infiniti LT as serviced by Nissan Motor Acceptance Corporation, dated August 20, 2018, the undersigned will move at a hearing to be held at United States Bankruptcy Court, 300 Quarropas Street, White Plains, New York 10601 on October 1, 2018, at 10:00 AM of that day, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §362(d)(1) granting such creditor relief from automatic stay, and waiver of the requirement of F.R.B.P. Rule 4001 that requires that the Order Granting Relief from the Automatic Stay be effective fourteen days from the date of the entry of said Order, or, in the alternative, directing the debtor, above-named, to immediately provide for the adequate protection of any property subject to the security interests of such creditor; for costs and disbursements of this action; and for such other and further relief as to the Court may seem just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9006-1, Local Rules of Bankruptcy Practice for the Southern District of New York, answering papers and memoranda of law, if any, must be filed with the Court and served upon the undersigned so as to be received by the undersigned no later than seven (7) calendar days before the return date of this motion.

DATED: August 20, 2018

**SCHILLER, KNAPP,  
LEFKOWITZ & HERTZEL, LLP**

By: /s/ Martin A. Mooney  
Martin A. Mooney, Esq.  
Attorneys for Nissan-Infiniti LT  
as serviced by Nissan Motor Acceptance  
Corporation  
950 New Loudon Road  
Latham, New York 12110  
(518) 786-9069

TO: Marianne T. O'Toole, Esq. (Trustee)  
22 Valley Road  
Katonah, New York 10536

United States Trustee  
Office of the United States Trustee  
U.S. Federal Office Building  
201 Varick Street, Room 1006  
New York, New York 10014

Michael P. D'Alessio (Debtor)  
12 Water Street, Suite 204  
White Plains, New York 10601

Michael Paul Enterprises LLC  
(Party in Interest)  
12 Water Street, Suite 204  
White Plains, New York 10601

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New York, New York 10007-2803

UNITED STATES BANKRUPTCY COURT  
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In Re:

MICHAEL P. D'ALESSIO,  
  
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Hearing Date: October 1, 2018  
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HON. ROBERT D. DRAIN

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Nissan-Infiniti LT as serviced by Nissan Motor Acceptance Corporation (hereinafter "Nissan-Infiniti LT"), a creditor of the above-named Debtor, moves the above-entitled Court for an order modifying the automatic stay pursuant to 11 U.S.C. §362 (d)(1) to permit it to obtain possession of and sell a 2016 Infiniti QX80, more particularly described in Certificate of Title, which is annexed hereto and made a part hereof as Exhibit "B":

1. The Court has jurisdiction to hear this motion under 28 U.S.C. §157.
2. On July 18, 2016, Pepe Infiniti, as lessor, and the Debtor, Michael P. D'Alessio, and Michael Paul Enterprises, LLC, as lessees, entered into a Motor Vehicle Lease Agreement pursuant to which the debtor leased the 2016 Infiniti QX80 from the dealer at the rate of \$975.00 per month for a term of thirty-nine (39) months, commencing July 18, 2016. The Lease was assigned to Nissan-Infiniti LT. A copy of the Lease is annexed hereto and made a part hereof as Exhibit "A".
4. Debtor filed a petition for relief under Chapter 7 of the United States Code in this Court on April 17, 2018. Pursuant to 11 U.S.C. §362(a)(1) Nissan-Infiniti LT is stayed from proceeding with any action to obtain possession of and sell the vehicle.
5. Based upon information provided by Nissan-Infiniti LT, as of August 14, 2018, the Debtor was due for payments of \$975.00 for the months of April, 2018 through July, 2018, totaling \$2,925.00.

6. The current net payoff as of August 20, 2018 is \$57,385.45. The purchase option amount at the end of the lease term is \$43,032.30. According to the NADA Used Car Guide the retail value of the collateral is \$46,800.00. A copy of the relevant NADA Guide page for the month of August, 2018 is annexed hereto and made a part hereof as Exhibit "C".

7. Nissan-Infiniti LT requests an award of reasonable costs and attorney's fees as the Court may allow.

8. Pursuant to 11 U.S.C. 362(d) a Court may terminate, amend, modify the automatic stay for cause including the lack of adequate protection of an interest in the property.

9. Nissan-Infiniti LT's interest is not adequately protected as a result of the Debtor's failure to make the necessary payments.

10. Therefore, sufficient cause exists to grant Nissan-Infiniti LT relief from the automatic stay.

11. By reason of the foregoing, Nissan-Infiniti LT or its assigns should be permitted to obtain possession of and sell the aforesaid vehicle.

12. It is requested that in the event that an Order Granting Relief from the Automatic Stay is granted, that such Order survive any conversion.

13. In the event the vehicle is sold at auction, the Chapter 7 Trustee will receive notice of any surplus monies.

14. Nissan-Infiniti LT further requests that the provisions of F.R.B.P. Rule 4001 which state that the Order Granting Relief from the Automatic Stay will be effective fourteen days from the date of its entry be waived.

15. No previous application has been made for the relief requested herein.

**WHEREFORE**, Nissan-Infiniti LT as serviced by Nissan Motor Acceptance Corporation requests that this Court enter an order modifying the automatic stay herein, together with Nissan-Infiniti LT's attorneys' fees and costs in the amount of \$531.00, together with such other and further relief as to the Court may seem just and proper.

Dated: August 20, 2018

**SCHILLER, KNAPP,  
LEFKOWITZ & HERTZEL, LLP**

By: /s/ Martin a. Mooney  
Martin A. Mooney, Esq.  
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